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Clerk/Administrator

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*The Court of Appeals  
of the  
State of Washington  
Division III*



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May 7, 2015

Guadalupe Arousa, Jr.  
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CASE # 327256  
Personal Restraint Petition of Guadalupe Arousa, Jr.  
SPOKANE COUNTY SUPERIOR COURT No. 131025362

Dear Counsel and Mr. Arousa:

Enclosed is a copy of the Order Dismissing Personal Restraint Petition filed by this Court today in the above-referenced case.

In accordance with RAP 16.14(c) and RAP 13.5 A, review of this Order may be obtained only by filing a Motion for Discretionary Review in the Washington State Supreme Court within 30 days after the filing of this Order. A copy must be filed with the Court of Appeals.

The address for the Washington State Supreme Court is Temple of Justice, P. O. Box 40929, Olympia, WA 98504-0929.

Sincerely,

Renee S. Townsley  
Clerk/Administrator

RST:ko  
Enclosure  
c: E-mail: Hon. Gregory D. Sypolt

*Served*

**FILED  
MAY 7, 2015**

**In the Office of the Clerk of Court  
WA State Court of Appeals, Division III**

**COURT OF APPEALS, DIVISION III, STATE OF WASHINGTON**

<b>In the Matter of the Personal Restraint</b>	)	<b>No. 32725-6-III</b>
<b>of:</b>	)	
	)	
<b>GUADALUPE AROUSA,</b>	)	<b>ORDER DISMISSING PERSONAL</b>
	)	<b>RESTRAINT PETITION</b>
	)	
<b>Petitioner.</b>	)	
	)	

Guadalupe Arousa seeks relief from personal restraint imposed for his 2014 Spokane County conviction upon plea of guilty in cause no. 13-1-02536-2 to two counts each of unlawful possession of payment instruments and possession of another's identification. The court imposed a 25-month sentence to run concurrent with an earlier-imposed sentence in Grant County Superior Court cause no. 13-1-00521-5.

Mr. Arousa initially filed this petition as a CrR 7.8 motion in superior court to modify his judgment and sentence to clarify the correct start date of his prison sentence in the Spokane County case. The Department of Corrections (DOC) determined a start date of May 1, 2014, whereas Mr. Arousa contended the correct start date should be January 9, 2014. The superior court transferred the motion to this court for consideration as a personal restraint petition. CrR 7.8(c)(2). This court requested a response to the petition

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*PRP of Arousa*

from the DOC.

On January 6, 2014, Mr. Arousa was convicted of possession of methamphetamine in Grant County. He received an 18-month prison sentence with credit for 136 days of county jail time served and 68 days of jail good time credit. (DOC Response, Exhibit 2, Attachment A) The DOC determined the prison sentence start date was January 9, with a possible early release date of September 20, 2014. (DOC Response, Exhibit 1, Attachment A at 8-9, 19) On March 4, 2014, Mr. Arousa was temporarily transferred from the DOC to the Spokane County Jail to face the charges in superior court cause no. 13-1-02536-2. He entered his guilty plea and was convicted on April 24, 2014. (DOC Response, Exhibit 2, Attachment B) He was returned to the DOC on May 1, 2014. The DOC's records indicate that it credited Mr. Arousa with time served (including earned time credit) towards his Grant County prison sentence while he was temporarily housed in the Spokane County Jail from March 4 to May 1. (Exhibit 1, Attachment A at 8-9, 19) The DOC then determined May 1, 2014 was his prison start date for the 25-month Spokane County sentence. Based upon eligibility for earned early release credit at a 33% rate, the DOC calculated his possible early release date as July 23, 2015. (Exhibit 1, Attachment A at 5)

Since Mr. Arousa is challenging a DOC determination of his prison start date for which he has had "no previous or alternative avenue for obtaining state judicial review," he must show that he is under restraint and that the restraint is unlawful. *See In re Pers.*

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*PRP of Arousa*

*Restraint of Cashaw*, 123 Wn.2d 138, 148-49, 866 P.2d 8 (1994); RAP 16.4(a)-(c). A petitioner may obtain relief by showing a federal or state constitutional violation or violation of the laws of the State of Washington. RAP 16.4(c)(2).

Mr. Arousa claims that the prison start date for his Spokane County sentence should be the same as the start date for his Grant County sentence because the Spokane County sentence is ordered to be served concurrently. In a supplement to his CrR 7.8 motion filed in this court on November 11, 2014, he states that his presentence credit for time served in the Grant County matter started on August 9, 2013, and on that same day he was served with a warrant in the Spokane County matter. Thus, he contends he should have also received credit beginning on that day (August 9) towards his Spokane County sentence, and that his May 1, 2014 prison start date should be adjusted accordingly. His arguments fail.

An offender is entitled to credit for time served before sentencing only if that time was served exclusively on the offense that was sentenced:

The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

RCW 9.94A.505(6); *In re Phelan*, 97 Wn.2d 590, 597, 647 P.2d 1026 (1982); *see also State v. Watson*, 63 Wn. App. 854, 859, 860, 822 P.2d 327 (1992). Credit is not allowed for time served on other charges. *In re Pers. Restraint of Costello*, 131 Wn. App. 828, 833, 129 P.3d 827 (2006). This principle applies even when the sentence for other

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*PRP of Arousa*

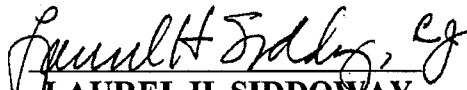
charges is concurrent. *State v. Stewart*, 136 Wn. App. 162, 167-68, 149 P.3d 391 (2006).

Prior to Mr. Arousa's May 1, 2014 return to prison after being sentenced in the Spokane County case, the DOC had credited all of his time served from January 6 to May 1 towards his Grant County sentence structure. Mr. Arousa is not entitled to double credit for this time towards the prison start date for his Spokane County sentence. RCW 9.94A.505(6). It also appears that he was fully credited with presentence time served in the Grant County matter beginning August 9, 2013. Thus, under RCW 9.94A.505(6), Mr. Arousa is not entitled to also receive credit for that time towards his Spokane County sentence. He makes no showing that the DOC has erred in determining his May 1, 2014 prison start date, or in its calculation of July 23, 2015 as his possible earned early release date.

Mr. Arousa makes no showing that he is under unlawful restraint. He fails his burden under RAP 16.4.

Accordingly, the petition is dismissed pursuant to RAP 16.11(b). The court also denies Mr. Arousa's request for appointed counsel. *See In re Pers. Restraint of Gentry*, 137 Wn.2d 378, 390, 972 P.2d 1250 (1999); RCW 10.73.150(4).

DATED: May 7, 2015

  
LAUREL H. SIDDOWAY  
CHIEF JUDGE